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July 29, 2011

VIA REGULAR MAIL

HONORABLE LOIS BLOOM
UNITED STATES DISTRICT COURT
MAGISTRATE JUDGE
Eastern District of New York
225 Cadman Plaza East
Brooklyn, NY 11201

Re: HORATIO LAMARCHE v. Sergeant Javier Agosto and New York City
Docket No.: 10-CV-561 (FB)(LB)

Dear Judge Bloom:

I am the attorney for Mr. Lamarche, the plaintiff in this matter and I write with the consent of the attorney for defendant Sergeant Javier Agosto to respectfully request a one month extension of time to complete discovery (currently scheduled to close on July 29, 2011). Defendant City of New York has refused to consent to the extension.

The depositions of the plaintiff and Lieutenant Agosto were completed today. Attorneys for the City of New York assured this office and Mr. Agosto's attorney that they would produce Officer Murray. Approximately two weeks ago the City informed us that Police Officer Murray was not responding to the City's request that she make herself available for an examination before trial. The City attorneys suggested that we serve a subpoena on her. At or about that time, the City was prepared and actually suggested that we request more time to complete discovery.

Police Officer Murray is an important factual witness who will be called to testify at trial. She witnessed Sergeant (now Lieutenant) Agosto's attack on Mr. Lamarche (who at the time was wearing a neck brace and back brace and was handcuffed). She made a formal complaint about his attack. At his deposition, Mr. Agosto denied any wrong doing and testified that he did not violate Mr. Lamarche's civil rights as Police Officer Murray reported in a formal complaint.

The City's refusal to consent to an extension of time became known to us today at the deposition of the parties. Prior to today, it was thought that the city would consent to providing their non-party witness for deposition. Since reversing its position on producing Officer Murray,

the City of New York has not stated whether Officer Murray would be produced as a non-party witness or as representative from the City of New York's Department of Homeless Services.

There was one prior request for an extension of time made by this office and that request was granted.

Mr. Lamarche respectfully requests that your Honor order the extension of time to complete discovery, that the City produce Officer Murray on a date certain to be deposed, and that the City provide the discovery that was requested at the deposition of Mr. Agosto, specifically the training manuals and videotapes related to the arrest and handling of emotionally disturbed DHS clients.

We appreciate Your Honor's time and attention to this matter.

Respectfully Submitted,

/s Gary N. Rawlins

cc.

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* This office was not able to access the ecf system to file this motion electronically.